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HIGH COURT OF CHHATTISGARH: BILASPUR

Writ Petition (C) No. 5459 of 2007

Petitioner		Jayesh Kumar Jain, S/o. Vijay Kumar Jain, aged about 27 years, State Coordinator Chhattisgarh of behalf of cause foundation, R/o. Kas Foundation Chouhan Raja Supela Bhilai, Dist. Durg (CG).
	Versus	
Respondents	1)	State of Chhattisgarh through Secretary, Home Department, D.K.S. Bhawan, Raipur (CG).
	2)	Superintendent of Police, Distt. Durg (CG).
	3)	S.H.O. Supela, Bhilai, Distt. Durg (CG).
	4)	Pradeep Singh, S/o. Ramlakhan Singh, aged about 27 years, R/o. Back of Chandra Shekhar School, Panchshil Nagar, Durg (CG).

(Writ Petition under Article 226 of Constitution of India.)

SB: Hon'ble Mr. Satish K. Agnihotri, J.

Present: Shri Vivek Sharma, counsel for the petitioner.
Shri Sumesh Bajaj, Govt. Advocate for the State.

ORDER

(Passed on 7th September, 2007)

According to learned counsel appearing for the petitioner, the petitioner is working as State Coordinator in Kas Foundation, which is incorporated under Section 25 of the Companies Act, 1956. The main function of the Corporation is to provide financial support in rural areas of the country. The respondent No.4 Shri Pradeep Singh was appointed as Assistant Manager at Bhilai Branch of the Company for coordinating two joint liability groups coordinator (JCs) for collecting installments of repayment of loan from the clients of the company. The respondent

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No.4 was terminated from the services on 7-2-2007 due to some indiscipline committed by him.

2) It is alleged by the petitioner that the company has come across some information through reliable sources that even after termination of the respondent No.4 from the services, he was collecting money from the clients/JCs of the company and is not depositing the same with the company, thereby cheating the company. Due to the above act of the respondent No.4, the company has suffered heavy loss.

3) The petitioner made a written complaint (Annexure P/1) to the respondent No.2 Superintendent of Police, Durg. According to the petitioner, the company has also lodged a complaint against the respondent No.4 in the Police Station Supela, Dist. Durg.

4) Learned counsel appearing for the petitioner submits that by not taking any action against the respondent No.4, the respondents No. 2 and 3 are violating the provisions of Section 154 of the Code of Criminal Procedure, 1973, (for short, "Cr.P.C.") which provides registration of information of any cognizable cases and taking action against the accused person.

5) I have heard learned counsel for the petitioner and perused the pleadings and documents appended thereto. It is evident that the petitioner has not exercised the remedy provided under Section 154 (3) of the Cr.P.C., by making a complaint to the Superintendent of Police concerned against the Police Station that the Police Station has declined to register a case in purported letter (Annexure P/1).

6) Learned counsel appearing for the petitioner fairly admits that the petitioner has not attempted to make a complaint to either a superior officer as provided under Section 154 (3) of the Cr.P.C., and he has further not availed other remedy available under the provisions of Sections 190 and 200 of the Cr.P.C. The petitioner without assigning

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any reasons as to why he has chosen to prefer this petition seeking a direction to respondents No.2 and 3 to initiate enquiry against the respondent No.4.

7) This Court cannot direct either judicial officer or the respondents No. 1, 2 and 3 where the petitioner has not preferred any complaint or application under the provisions of law. The only submission of learned counsel appearing for the petitioner that the Police Station is under an obligation to register a case on the basis of complaint submitted by the person, does not require any further explanation. The Police Station is admittedly under an obligation to register a case and investigate the same.

8) Be that as it may, since the petitioner has not availed the statutory remedy available under the provisions of Sections 154, 190 and 200 of the Cr.P.C., it is not expedient to entertain this petition at this stage.

9) The petition is accordingly dismissed as not maintainable. However, it would be open to the petitioner to take recourse to any other remedy available under the provisions of law.

Sd/-
Satish K. Agnihotri
Judge

Raju